

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

Dated: 16th day of June 1998

Before
THE HON'BLE Mr. JUSTICE V.GOPALA GOWDA

WRIT PETITION No.8990/92

Between:

Manjunath M.Jalawadi,
R/o. M.J.Jalawadi,
Metal Merchant,
Station Road,
Bagalkot 587 101,
Bijapur District.



...PETITIONER

(By Sri F.V.Patil)

And:

The Chairman and
Managing Director,
Karnataka Land Army
Corporation Ltd.,
Chinnaswamy Stadium,
Raj Bhavan Road,
Bangalore-1.

...RESPONDENT

(By Sri V.Seshaprasad)

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W.P is filed under Articles 226 and 227 of the Constitution of India praying to direct the respondent to pay the allowances due to the petitioner from 1-7-1987 and arrears of salary upto this date, to declare the action of the respondent preventing the petitioner from functioning as Task Force Commander without the authority of law and to direct the respondent to take him on duty.

This W.P coming on for hearing this day, the Court made the following:-



290

ORDER

The petitioner has sought for various reliefs in this writ petition. The summary of the reliefs sought for is to declare the action of respondent from preventing him to work as Task Force Commander is arbitrary and without the authority of law, to take him on duty and pay the salary and allowances from 1-7-1987.

2. Respondent has filed detailed statement of objections. In paragraph 3 it is stated that a show cause notice as per Annexure R-1 was issued to the petitioner for his unauthorised absence and instead of submitting his explanation, the petitioner has tendered resignation as per Annexure R-2. But, it is not stated whether the said resignation letter was accepted or not.

3. In paragraphs 6 and 9 it is stated that the petitioner was not prevented by anybody from working but he remained absent unauthorisedly. In view of that, it is stated that the petitioner is not entitled for the



salary and allowances claimed by him. In paragraph 7 it is stated that the arrears of pay from 1-7-1987 to 10-12-1988 is only due and the same will be paid after the settlement of his dues to the Corporation. It is also stated that subsequent to 10-2-1988 the salary is not due as the period is treated as leave without pay.

4. In view of the stand taken by the respondent in the statement of objections, the prayer of the petitioner for payment of salary and allowances cannot be granted.

5. As regards the relief sought for in prayer column (c) for a direction to the respondent to take the petitioner on duty is concerned, in the statement of objections it is stated whether the resignation alleged to have been tendered by the petitioner has been accepted or not. The statement is very vague. Added to this, in view of the show cause notice issued as per Annexure R-1 and no positive action is taken thereon, and also in view of the the statement made in paragraph 7 of the statement that the period after

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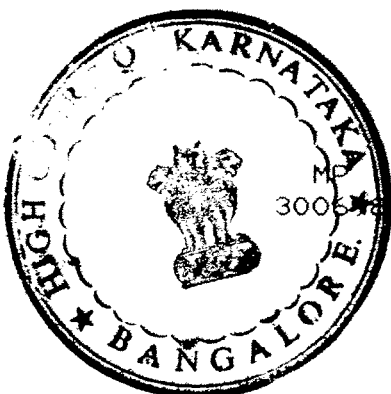
292

10-2-1998 is treated as leave without pay, it has to be presumed that the petitioner is still in service. This presumption supports the statement in the penultimate paragraph of the statement of objections to the effect that the petitioner being not available for any further communication, the actions proposed against him could not be initiated. Thus, except the issuance of show cause notice, nothing took place thereafter.

6. Since the respondent has not proceeded further after issuance of the show cause notice, they can take a decision in this regard. If the resignation letter is accepted, it should be only with prospective effect and not retrospective. In any event, since the petitioner has not worked, he is not entitled for any salary or backwages.

7. With the above observations, the writ petition is disposed of.

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Sd/-
JUDGE